

REMARKS

Applicants gratefully acknowledge the Examiner's withdrawal of the rejection made in the previous office under 35 U.S.C. § 112, second paragraph.

Claims 3-4 and 6-10 are currently pending in the application.

Claims 3-4 and 6-10 have been rejected under 35 U.S.C. § 102(e) as unpatentable over U.S. Patent No. 6,167,383 to Henson. In making this rejection, the Examiner has effectively restated grounds of rejection presented in the previous two office actions, with minor adjustments made in the text of the office action to accommodate amendments. Applicants therefore incorporate the responses to the previous two office actions by reference as if fully restated herein.

Applicants respectfully traverse on the basis that Claims 3-4 and 6-10 are not anticipated by Henson and on the basis that the rejection is based on impermissible hindsight and an improper assertion of technical fact in an area of esoteric technology without support by citation of any reference work

In responding to Applicants' arguments made in response to the previous office action, the Examiner states:

Applicant argues that Henson describes a "customer centric" approach, which is quite different from a "supplier centric" approach of the current cited invention.

First, it is old and well known that suppliers are in business to ensure they support and satisfy customer needs/requirements — both from separate bundle features of their products as well as associated pricing for these bundled features. It is also well known that if the supplier does not satisfy the customer's needs with appropriate solutions — they will go out of business. For example, companies such as Wang as well as Data General both went out of business because they did not meet customer needs/requirements. As these companies learned the hard way, "customer centric" is the only reason for existing. As noted, a company which is

primarily “supplier centric” have failed because the company was not “customer centric” enough and clearly the competition was.

(Office Action at 5-6) (emphasis added) Thus, the Examiner’s rejection of claims 3-4 and 6-10 depends almost entirely upon the factual assertion, supported by nothing more than the Examiner’s unsupported (and largely irrelevant) anecdote about Wang and Data General, that “[i]t is also well known that if the supplier does not satisfy the customer’s needs with appropriate solutions — they will go out of business.” (Office Action at 6)

In addition, the Examiner’s use of anecdotes regarding Wang and Data General does not address customer centricity versus supplier centricity as those concepts are understood in the art.

Finally, there is no logic in the Examiner’s use of the assertion that “‘customer centric’ is the only reason for existing” as a basis for rejecting Applicants’ distinction between “customer centric” and “supplier centric” models with regard to the claimed invention. There is no logic, because the Examiner is essentially saying that it is impossible for Claims 3-4 and 6-10 to be “supplier centric” rather than “customer centric” — notwithstanding the obvious indications to the contrary.

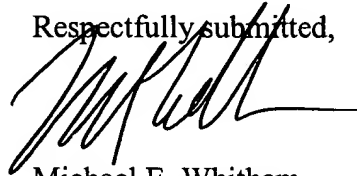
The Examiner’s rejection of Applicants’ argument that Claims 3-4 and 6-10 are distinguishable from Henson on the basis that Claims 3-4 and 6-10 are “supplier centric” while Henson is “customer centric” is based on impermissible hindsight and an improper assertion of technical fact in an area of esoteric technology without support by citation of any reference work. *See* M.P.E.P. § 2144.03 (citing *In re Ahlert*, 424 F.2d 1088, 1091, 165 U.S.P.Q. 418, 422-21 (C.C.P.A. 1970)). A detailed discussion of these differences is presented in the previous responses filed in the case. Moreover, with regard to the assertion that “customer centricity” is the only reason for a company to exist, the Examiner should note that even in excelling in this focus, if the company is unable to produce a valued product within reasonable costs, and sell it at a profit, the company will not be financially able to exist. The “supplier centric” solution described in the patent application addresses the area of operational efficiency, resulting in a reduced cost of

production and an increased level of profit that sustains the viability of the company.

In view of the foregoing, Applicant submits that claims 3-4 and 6-10 are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Deposit Account No. 50-0510 (IBM-Yorktown).

Respectfully submitted,



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